

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

- - -

PATTY BEALL, MATTHEW MAXWELL, )

DAVID GRAVELY, TALINA MCELHANY, )

KELLY HAMPTON, CASEY BROWN, )

JASON BONNER, KEVIN TULLOS, )

ANTHONY DODD, ILENE MEYERS, )

TOM O'HAYER, JOY BIBLES, DON )

LOCCHI and MELISSA PASTOR, )

Individually and on behalf of )

all others similarly situated; )

Plaintiffs )

vs. ) 2:08-cv-422-TJW

TYLER TECHNOLOGIES, INC., and )

EDP ENTERPRISES, INC. )

Defendants. )

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VIDEOTAPED DEPOSITION OF EDP ENTERPRISES, INC.'S  
CORPORATE REPRESENTATIVE, ROBERT SANSONE  
PORTLAND, MAINE  
AUGUST 17, 2010

ATKINSON-BAKER, INC.  
COURT REPORTERS  
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REPORTED BY: Cheryl C. Pieske, RMR  
FILE NO.: A40636D

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14 Plaintiff, )

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16 TYLER TECHNOLOGIES, INC., and, )

17 EDP ENTERPRISES, INC., )

18 Defendants. )

19 -----

20  
21 Videotaped deposition of ROBERT J. SANSONE,  
22 taken on behalf of Plaintiff, at 477 Congress Street,  
23 Portland, Maine, commencing at 8:40 a.m., Tuesday, August  
24 17, 2010, before Cheryl C. Pieske, RMR, Court Reporter  
25 and Notary Public.

A P P E A R A N C E S:

FOR PLAINTIFFS:

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FOR DEFENDANT:

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1717 Main Street, Suite 3200  
Dallas, Texas, 75201-7347

TYLER TECHNOLOGIES, INC.  
H. LYNN MOORE, ESQ.  
General Counsel

Also Present: Neil Orenstein, Videographer

1           A.    We prepared position descriptions. I talked to           10:03:39  
2   the project managers. I recruited for the position. I           10:03:45  
3   talked to implementors. Quite a bit because it's -- we           10:03:50  
4   have a number of them, and so I was filling a lot of           10:03:58  
5   positions, interviewed a lot of candidates. So I had to           10:04:01  
6   become familiar with the position.           10:04:05

7           Q.    And what did the project manager tell you that           10:04:06  
8   made you feel comfortable that the job position was           10:04:09  
9   exempt?           10:04:14

10          A.    Well, it wasn't just one project manager, first           10:04:14  
11   of all.           10:04:20

12          Q.    Sure.           10:04:20

13          A.    It was several. But that the implementation           10:04:20  
14   process is dynamic and unpredictable and that there are           10:04:25  
15   many components of it, and you cannot totally prepare           10:04:29  
16   somebody for what they're going to face when they go on           10:04:35  
17   site; and the -- a candidate or implementation specialist           10:04:37  
18   has to be able to deal with the unknown, the unforeseen,           10:04:44  
19   and figure out a way to get the process moving again and           10:04:49  
20   resolve problems that come up that no one would have           10:04:54  
21   known about or predicted.           10:04:57

22          Q.    Anything else?           10:04:59

23          MR. McKEEBY: The anything else is -- what's the           10:05:02  
24   underlying question, what he was told?           10:05:08

25          MS. BAGLEY: What he was told by the project           10:05:10

1 managers that he spoke with. 10:05:12

2 A. They also told me that the job was 10:05:13

3 multi-faceted, that there was consulting with the 10:05:17

4 customer on how to do things with choices, and did they 10:05:22

5 want to set it one way or another, and if they did it one 10:05:27

6 way, these would be the consequences and the benefits; 10:05:30

7 and if they did it another way, these are the 10:05:32

8 consequences and benefits, and possibly coming up with a 10:05:35

9 third way that no one had ever done before that fits that 10:05:39

10 customer, and that may or may not ever happen again. 10:05:42

11 They're all unique situations. 10:05:46

12 Q. Anything else? 10:05:48

13 A. There were many other things, but that was a 10:05:53

14 long time ago and -- 10:06:00

15 Q. Okay. Well, I'm assuming you have engaged in 10:06:01

16 such an evaluation since that time. 10:06:04

17 A. Uh-hmm. 10:06:06

18 Q. Correct? 10:06:06

19 A. Well, not a formal evaluation because, again, 10:06:07

20 I'm pretty comfortable with it being -- 10:06:11

21 Q. Go ahead. 10:06:14

22 A. -- being exempt. 10:06:15

23 Q. Okay. 10:06:16

24 A. I've never heard anything to the contrary that 10:06:17

25 has made me think that they weren't. 10:06:19

1 Q. So your present day comfortableness with regard 10:06:21  
2 to the exempt status of the implementation consultant 10:06:26  
3 position is based partly on the evaluation you were 10:06:29  
4 involved with in 1995 with MUNIS, correct? 10:06:34  
5 A. Yes. 10:06:37  
6 Q. All right. And since that time, there has been 10:06:37  
7 nothing that you have learned that has made you change 10:06:40  
8 your mind about the exempt status of that position, 10:06:42  
9 correct? 10:06:47  
10 A. That's correct. 10:06:47  
11 Q. Now, you also said you spoke to several 10:06:47  
12 implementors about the job position and gained some 10:06:50  
13 information from them. Did you learn anything other than 10:06:55  
14 what you've already told us about when you spoke to the 10:06:58  
15 project managers? 10:07:02  
16 A. No, I did not. 10:07:07  
17 Q. Okay. So my understanding, then, from your 10:07:08  
18 testimony is that your -- your decision or your under -- 10:07:12  
19 strike that. From what I understand from your testimony, 10:07:18  
20 your belief that the implementation consultant position 10:07:26  
21 is an exempt position under the Fair Labor Standards Act 10:07:30  
22 is based on information you obtained from project 10:07:33  
23 managers and implementation consultants and included job 10:07:36  
24 duties that were dynamic and unpredictable, that you 10:07:42  
25 could not totally prepare someone for the job. Is that 10:07:50

|    |   |          |
|----|---|----------|
| 1  | correct?  | 10:07:55 |
| 2  | A. Actually, it's reversed.                           | 10:07:55 |
| 3  | Q. Okay.  | 10:07:57 |
| 4  | MR. McKEEBY: Hold on. Object to the form of the       | 10:07:57 |
| 5  | question. You can answer, if you understand.          | 10:07:58 |
| 6  | A. Yeah. The implementation process is dynamic        | 10:08:03 |
| 7  | and unpredictable.                                    | 10:08:06 |
| 8  | BY MS. BAGLEY:  | 10:08:06 |
| 9  | Q. Right.   | 10:08:07 |
| 10 | A. And I believe you said you can't prepare them      | 10:08:07 |
| 11 | for the job?  | 10:08:10 |
| 12 | Q. Right, I think that's one of the things you        | 10:08:11 |
| 13 | said, you can't totally prepare someone.              | 10:08:13 |
| 14 | A. For the -- well, "job" isn't the right word but    | 10:08:14 |
| 15 | for what's going to happen when they get to the site. | 10:08:17 |
| 16 | Q. Okay. And that the implementation consultant       | 10:08:19 |
| 17 | deals with unknown and unforeseen things at the site? | 10:08:23 |
| 18 | A. Yes.   | 10:08:26 |
| 19 | Q. And that the implementation consultant is          | 10:08:26 |
| 20 | responsible for resolving problems?                   | 10:08:31 |
| 21 | A. Uh-hmm. Yes.                                       | 10:08:33 |
| 22 | Q. And that the position is multi-faceted; is that    | 10:08:34 |
| 23 | correct?  | 10:08:39 |
| 24 | A. Yes.   | 10:08:39 |
| 25 | Q. And that the implementation consultant has to      | 10:08:39 |

|    |   |          |
|----|---|----------|
| 1  | consult with the customer regarding options and provide   | 10:08:44 |
| 2  | the customer with the consequences and benefits regarding | 10:08:48 |
| 3  | different options that are available within the software? | 10:08:52 |
| 4  | A. That's correct.  | 10:08:55 |
| 5  | Q. Okay. Can you think of anything else that you          | 10:08:56 |
| 6  | based your decision on that the job position of           | 10:08:59 |
| 7  | implementation consultant was an exempt position under    | 10:09:04 |
| 8  | the Fair Labor Standards Act?                             | 10:09:06 |
| 9  | MR. MCKEEBY: Object to the form of the question.          | 10:09:08 |
| 10 | You can answer.   | 10:09:11 |
| 11 | A. Nothing else comes to mind at the moment but           | 10:09:13 |
| 12 | there are -- there are many factors that contribute, but  | 10:09:22 |
| 13 | those are the major ones.                                 | 10:09:26 |
| 14 | Q. Now, I want -- I want to ask a little more             | 10:09:28 |
| 15 | specific question. What -- did you make a determination   | 10:09:31 |
| 16 | with regard to each of these different job                | 10:09:35 |
| 17 | responsibilities that required the exercise of            | 10:09:42 |
| 18 | discretion?   | 10:09:45 |
| 19 | A. Did I? Yes.  | 10:09:50 |
| 20 | Q. Okay. And what did you consider to be an               | 10:09:52 |
| 21 | exercise of discretion within the job responsibilities    | 10:09:55 |
| 22 | that you have outlined for us?                            | 10:10:01 |
| 23 | A. Well, all of them.                                     | 10:10:02 |
| 24 | Q. And did you make a -- a specific evaluation of         | 10:10:06 |
| 25 | the discretion used? For instance, did you -- with        | 10:10:17 |



1 Q. Now, it's my understanding that the only 11:09:08  
2 exemption that is being asserted with regard to the 11:09:12  
3 implementor position is administrative exemption; is that 11:09:21  
4 correct? 11:09:25

5 MR. McKEEBY: Well, I don't know. 11:09:25

6 BY MS. BAGLEY: 11:09:28

7 Q. Strike that. Let me start over. What 11:09:28  
8 exemption is Tyler Technologies relying on for purposes 11:09:32  
9 of classifying implementors as exempt? 11:09:38

10 MR. McKEEBY: He's not equipped to answer that 11:09:41  
11 question, and I'm not trying to be tricky. It's just the 11:09:43  
12 administrative exemption, but I haven't prepared him to 11:09:47  
13 testify on behalf of the company about the defenses in 11:09:51  
14 the case. 11:09:53

15 MS. BAGLEY: I'm not -- and I'm not asking about the 11:09:55  
16 defenses. I'm asking in his mind, in Tyler's corporate 11:09:57  
17 decision making -- 11:10:04

18 MR. McKEEBY: Okay. 11:10:04

19 MS. BAGLEY: -- process, what exemption were they 11:10:06  
20 using? 11:10:08

21 MR. McKEEBY: Okay. 11:10:09

22 MS. BAGLEY: -- to -- you know, what part of the 11:10:12  
23 exempt classifications was Tyler relying on for purposes 11:10:18  
24 of saying that the implementor position was exempt? 11:10:21

25 A. The implementor position, you mean 11:10:24

1 implementation consultant or specialist? 11:10:27

2 Q. Right. 11:10:28

3 A. Okay. 11:10:28

4 Q. I'm saying that because we have got the 11:10:29

5 different terms. So implementor just seems to be -- 11:10:32

6 A. Uh-hmm, okay. 11:10:32

7 Q. -- the wrong way to say it. 11:10:34

8 A. The administrator. 11:10:34

9 Q. Okay. Are there any other exemptions that 11:10:36

10 Tyler Technologies is relying on for purposes of 11:10:39

11 classifying implementors as exempt under the Fair Labor 11:10:44

12 Standards Act? 11:10:48

13 A. No. 11:10:48

14 Q. Have you or any of the other HR directors 11:10:49

15 reviewed Department of Labor decisions to determine 11:11:02

16 whether the implementor position was exempt or nonexempt? 11:11:07

17 A. Not specifically to implementation consultants 11:11:14

18 but when I get notices from professional organizations, I 11:11:18

19 read them about positions being classified as exempt or 11:11:23

20 nonexempt, but I've never seen one that directly ties to 11:11:28

21 implementation consultant. 11:11:32

22 Q. Are you aware that there are Department of 11:11:32

23 Labor decisions that discuss computer software training 11:11:36

24 and similar implementor positions? 11:11:41

25 MR. McKEEBY: You can answer. 11:11:45

|    |  |          |
|----|--|----------|
| 1  | A. I'm aware of the recent changes to the act.           | 11:11:46 |
| 2  | MR. McKEEBY: That wasn't her question.                   | 11:11:52 |
| 3  | THE DEPONENT: I'm sorry.                                 | 11:11:54 |
| 4  | MR. McKEEBY: Would you repeat your question?             | 11:11:55 |
| 5  | A. I am not aware of any recent decisions                | 11:11:57 |
| 6  | affecting implementation consultants, if that's your     | 11:12:00 |
| 7  | question.  | 11:12:02 |
| 8  | BY MS. BAGLEY:   | 11:12:03 |
| 9  | Q. And it wasn't limited to recent decisions. Are        | 11:12:03 |
| 10 | you aware of any decisions of the Department of Labor    | 11:12:05 |
| 11 | that deal with computer positions?                       | 11:12:07 |
| 12 | A. Computer positions? That's --                         | 11:12:14 |
| 13 | Q. Positions that involve implementation of              | 11:12:16 |
| 14 | computer software?                                       | 11:12:19 |
| 15 | A. No, I'm not.  | 11:12:20 |
| 16 | Q. During the time that you were involved with the       | 11:12:39 |
| 17 | Courts and Justice evaluation, was there a determination | 11:12:43 |
| 18 | at that meeting that the telephone support position      | 11:12:48 |
| 19 | should be changed from exempt to nonexempt?              | 11:12:53 |
| 20 | MR. McKEEBY: Object. That's outside the scope of         | 11:12:58 |
| 21 | the designation.   | 11:13:01 |
| 22 | MS. BAGLEY: Okay.  | 11:13:02 |
| 23 | MR. McKEEBY: I instruct him not to answer questions      | 11:13:03 |
| 24 | that are outside the scope of the designation.           | 11:13:05 |
| 25 | BY MS. BAGLEY:   | 11:13:05 |